

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

TO: Deputy Chief Administrator
FROM: Supervising Investigator
DATE: September 29, 2017
REFERENCE: Log #1076296/ U #15-14, RD# HY-XXXXXX

INCIDENT
DATE/TIME: July 23, 2015, at approximately 11:35 a.m.

LOCATION: XXXX E. 69th Street

INITIAL INCIDENT: Individual attempted to steal a tool from a construction site and an off-duty Police Officer, working as a security guard at the site, attempted to detain him

INVOLVED OFFICER #1: Officer A; Star #XXXXXX; Employee #XXXXXX; Unit 006; Black Female; Off-Duty – plain clothes; CPD Start Date: 19 February 2013

WEAPON: Glock, model 19; 9mm; semi-automatic pistol; Serial #XXXXXXXX; City Registration #XXXXXXXX; FOID #XXXXXXXX; Fifteen live rounds recovered from firearm; Weapon capacity of sixteen rounds; Fired one time.

INJURIES: Two through and through gunshot wounds to left leg

INVOLVED CIVILIAN: Subject 1; Black Male; DOB: 14 April 19XX; Address: XXXX N. Spaulding, Chicago, IL; IR #XXXXXX

WEAPON: None

INJURIES: None

SUMMARY OF INCIDENT

On July 23, 2015, at approximately 11:35 a.m., Officer A was off-duty, working as a security guard at a construction site, when she observed an individual attempting to steal a tool from the site. Officer A chased the individual and became lodged between the individual's vehicle and its partially open door as he attempted to flee the scene. The individual began intentionally swerving into parked cars in an attempt to dislodge Officer A from the vehicle. Officer A un-holstered her firearm and the individual grabbed it. Officer A and the individual struggled for control of the firearm and the firearm discharged one time.

Officer A was shot one time and sustained non-fatal injuries.

INVESTIGATION

IPRA obtained relevant video, forensic, and documentary evidence associated with this incident. Additionally, IPRA interviewed witnesses Civilian 1, Civilian 2, and Civilian 3 who witnessed various aspects of this incident. IPRA also interviewed involved Police Officer A.

The following are summaries of the relevant evidence obtained in this investigation:

Civilian Witness Interviews¹

In an **interview with IPRA** on July 23, 2015 **Witness Civilian 2** stated that, on July 23, 2015, he observed events related to the incident involving the discharge of Officer A's firearm. Civilian 2 heard someone yell "police" and observed a black male and a female near the driver side of a van. Civilian 2 observed the van moving with a female running or being dragged along the side of the vehicle. The van then stopped at the intersection of Crandon and 69th St. and Civilian 2 heard a single "pop." (Att. 12)

In an **interview with IPRA** on July 23, 2015 **Witness Civilian 1** stated that on July 23, 2015, he observed events related to the incident involving the discharge of Officer A's firearm. Civilian 1 observed a white van driving on 69th St. that was striking several parked vehicles including Civilian 1's work vehicle. Civilian 1 observed an individual running or being dragged along the driver side of the vehicle and he stated that it appeared that the driver was intentionally trying to ram the individual running or being dragged along the driver side into the parked vehicles. (Att. 11)

In an **interview with IPRA** on July 23, 2015 **Witness Civilian 3** stated that on July 23, 2015, she observed events related to the incident involving the discharge of Officer A's firearm. Civilian 3 was inside her office when she heard a gunshot. Civilian 3 went to her window and observed a person lying in the road with a gun in the person's hand. (Atts. 13)

Police Officer Interview

In an **interview with IPRA** on January 27, 2016, **Involved Officer A, #XXXXXX**, stated that, on July 23, 2015, she was off-duty in plain clothes, working her part-time job as a security guard for Meade Electrical Company. Officer A's job responsibilities included travelling to various Meade worksites to ensure that the crew members were safe and that their equipment was not stolen while at the construction sites. Officer A estimated that she had previously worked as a security guard for Meade on fifteen to twenty other occasions.

¹ None of the civilian witnesses claim to have witnessed PO A discharge her firearm.

On July 23, 2015, Officer A was assigned to work security at a construction site located on the 2200 block of 69th St. Officer A arrived at the scene at 10:00 a.m. and sat in her car observing the Meade trucks while the Meade employees worked on the other side of a building not within Officer A's view. Officer A was in her personal vehicle and had her police badge clipped to her belt. Officer A had her duty weapon, a 9 millimeter Glock, in a holster inside her pants.

At approximately 11:35 a.m., Officer A observed a male individual, later identified as Subject 1, running from one of the Meade trucks with a large power drill in his hand. Subject 1 ran to a minivan parked in the street and Officer A immediately exited her vehicle and ran towards him. Officer A announced that she was a Police Officer and told Subject 1 to stop. Subject 1 got into the van and put the drill onto the lap of an unknown female passenger in the van. Officer A followed Subject 1 to the partially open driver side door of the van.

Officer A un-holstered her firearm and told Subject 1 to show his hands. Subject 1 picked up the drill and threw it onto the street. Subject 1 put the van into drive and began driving forward. Officer A picked up her feet and began hanging from the driver side door while positioned inside the van between the partially open door and the vehicle itself. Subject 1 began to intentionally drive the van into parked cars and Officer A became wedged between the door and the door frame. Subject 1 continued to swerve into parked cards in an effort to dislodge Officer A from the van.

While this was occurring, Subject 1 grabbed Officer A's firearm and they both struggled to gain control of the firearm. After the van travelled approximately one half of a block and reached the intersection of 69th St. and Crandon, Subject 1 slowed the van and grabbed Officer A's firearm with both hands. The struggle continued for the firearm until the van stopped abruptly and the firearm discharged. Officer A was shot through and through her thigh and calf. Officer A fell out of the van and Subject 1 drove away.

As Officer A was lying on the street, she noticed a cellular phone on the street that was later identified as belonging to Subject 1. Officer A was transported to a hospital. Officer A later identified Subject 1 and his female passenger in separate police lineups. (Att. 55)

Video & Audio Evidence

Video Surveillance Footage from XXXX S. Crandon Ave., shows a short video of Subject 1's vehicle driving by the building at 11:39 a.m. on July 23, 2015. (Atts. 14, 40)

The **Office of Emergency Management and Communication (OEMC) Event Queries** were collected and made part of this case file. On July 23, 2015 at 11:44 a.m., an event was reported describing a female officer shot in the leg while a silver van drove by the area with its door open. (Atts. 16, 17, 18, 19, 20)

Forensic Evidence

CPD Crime Scene Processing Reports XXXXXX and XXXXXX completed on July 24, 2015 document the evidence identified, collected, and inventoried in connection with this incident. Evidence collected included Officer A's firearm, a fifteen round magazine with fifteen live 9MM rounds, and one expended 9MM shell. A blue Samsung cellular phone was also collected from the street at the scene. (Atts. 23, 24, 31)

Evidence Technician Photographs depict Subject 1's mini-van including damage to the exterior of the vehicle along the driver side. The photographs depict a Lexus sedan parked on a street with damage to the exterior of the vehicle along the driver side, a Kia sedan parked on a street with damage to the passenger side mirror and

back bumper, a Mazda sedan parked on a street with damage to the exterior of the vehicle along the passenger side, a Ford sedan parked on a street with damage to the exterior of the vehicle along the passenger side and side mirror, and a Ford mini-van with damage to the passenger side window. The photographs also depict Officer A's firearm and holster. The photographs depict a blue cellular flip phone and battery. (Atts. 37, 44, 45, 46, 47, 48)

Illinois State Police (ISP) Forensic Science Laboratory Report dated February 24, 2017 documents that swabs from the cellular phone that was found at the scene of the incident contained DNA matching the DNA profile of Subject 1. (Att. 58)

Other Documentary Evidence

A Tactical Response Report (TRR) completed by **Officer A #XXXXXX** documents that Subject 1 did not follow verbal direction, fled, presented an imminent threat of battery with his automobile, and used force likely to cause death or great bodily harm. Officer A responded with member's presence, verbal commands, and her firearm. (Att. 8)

The **Officer's Battery Report (OBR)** completed by **Officer A #XXXXXX** documents that she was off duty in citizen's dress when Subject 1 attempted to obtain her weapon and attempted to strike her with his vehicle. Officer A sustained a non-fatal, major injury (Att. 9)

CPD's Bureau of Internal Affairs conducted an **alcohol and drug test** of involved Officer A on July 23, 2015 at 3:40 p.m. The collective bargaining agreement and policy of CPD requires those involved in a firearms discharge incident to undergo testing for the presence of alcohol and drugs. Officer A's drug test, administered after she was admitted to Northwestern Hospital, was positive for codeine, consistent with the hospital's report that, prior to the time of the test and in connection with the treatment of her injuries sustained in the incident at issue, Officer A had been administered Morphine and Norco. All of the other tests came back negative for alcohol and drugs. (Att. 39)

ANALYSIS

Based on the totality of the circumstances, Officer A's actions did not violate Department Policy. A preponderance of evidence demonstrates that Officer A was executing police action when she un-holstered her firearm to stop Subject 1's theft of property and subsequent attempt to flee. Officer A announced her office and commanded Subject 1 to stop. Officer A continued her pursuit of Subject 1 while he attempted to flee in his vehicle. Officer A was forced to jump into Subject 1's vehicle as he attempted to flee and cause her bodily harm by intentionally driving his vehicle into parked cars and wedging Officer A between his vehicle and parked cars.

Officer A's firearm was discharged as a result of Subject 1's attempts to gain control of the firearm and Subject 1's abrupt halting of his vehicle. Officer A did not intend to discharge her firearm and this was not a use of deadly force. As such, Officer A's conduct did not violate any Department Policy.

CONCLUSION AND FINDING

There was no violation of Department Policy because Officer A was reasonable in her display of her firearm and the discharge of her firearm was a result of Subject 1's efforts to gain control of Officer A's firearm.